

ENTERED

December 20, 2023

Nathan Ochsner, Clerk

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION****IN RE:****SHAMBHALA TREATMENT CENTER
LLC
and
CROCKETT PATHWAYS LLC,
Debtors.**§
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§**CASE NO: 23-33463****Jointly Administered
CHAPTER 11****ORDER***Resolving ECF No. 81*

Pending before the Court is a single matter self-styled as “Debtors’ Motion To Set Aside Wild Frontier’s Notice Of Default And Termination Of Automatic Stay” (“*Debtor’s Motion*”)¹ filed by Shambhala Treatment Center LLC and Crockett Pathways, LLC, (“*Debtors*”) on November 3, 2023. Also on November 3, 2023, Wild Frontier Acquisitions, LLC (“*Wild Frontier*”) filed “Wild Frontier Acquisitions, LLC’s Response To Debtor’s Motion To Set Aside Wild Frontier’s Notice Of Default And Termination Of Automatic Stay And Request For Emergency Hearing Prior To Tuesday, November 7, 2023 (Docket 81),” (“*Wild Frontier’s Response*”).² On November 21, 2023, Debtors filed their “Reply On Debtors’ Motion To Set Aside Wild Frontier’s Notice Of Default And Termination Of Automatic Stay” (“*Debtor’s Reply*”).³ On December 1, 2023, the Court held a hearing on this matter.

A. Background

1. On October 19, 2023 the Court issued an order requiring Debtors to:
 - i. On or before 5:00 pm (Central Standard time) October 23, 2023 Debtors must obtain property damage, fire and windstorm insurance in amount not less than Wild Frontier’s secured claim, purchase said insurance from an insurer that is authorized to do business in the state of Texas or an eligible surplus lines insurer; and name Wild Frontier as the person to be paid under the policy in the event of a loss. Insurance must be purchased and pre-paid for a period of not less than twelve (12) months and provide a copy of said insurance to Wild Frontier. The property to be covered by said insurance is: 69.659 acres out of and a part of the FRANK JOHNSON SURVEY, A-46, in the City of Crockett, Houston County, Texas, and being out of and a part of the Texas Youth Commission called 81.83 acres tract and being out of and a part of a called 32.6 acres tract, described in a deed recorded in Vol. 277, Page 221, of the Houston County Deed

¹ ECF No. 81.² ECF No. 82.³ ECF No. 106.

Records; more commonly known as 1701 SW Loop 304, Crockett, TX 75835 (the “*Property*”).

- ii. Debtors must also add the United States Trustee’s (“*UST*”) office as a party of notice on any insurance policy. Upon obtaining insurance, Debtors must (i) provide a copy to Wild Frontier’s counsel, and
 - iii. file a certificate of compliance (“*Certificate*”) with the Clerk of Court no later than 6:00 p.m. October 23, 2023.⁴
2. On October 20, 2023 Debtors filed their Certificate stating that “. . .they have obtained property damage, fire and windstorm insurance in amount not less than Wild Frontier’s secured claim (“*Insurance Policy*”). The insurance has been purchased from an insurer that is authorized to do business in the state of Texas or an eligible surplus lines insurer. Wild Frontier is named as the person to be paid under the policy in the event of a loss. The insurance has been purchased and pre-paid for a period of not less than twelve (12) months.”⁵ Notably missing, however is the UST as a party of notice.
 3. On October 24, 2023, Debtors filed “Debtors’ Supplemental Certificate of Compliance” (“*Supplemental Certificate*”)⁶ stating that “. . . they have obtained property damage, fire and windstorm insurance in amount not less than Wild Frontier’s secured claim for less than \$2.4 million”.⁷ Additionally, Debtor states that “the attached Builder’s Risk policy, number BR7428411 issued by American Zurich Insurance Company, provides \$2.5 million in coverage for new construction and remodeling of buildings located at 1701 SW Loop 302, Crockett, Texas 75835”.⁸ Finally, Wild Frontier is listed as a “Mortgage Holder.”⁹ 4, 2023, Debtors filed their “Debtors’ Second Supplemental Certificate of Compliance”, (“*Debtor’s Second Supplement*”)¹⁰ noting that Mr. Ross Travis of the UST is listed as an “Additional Interest” on the policy.¹¹
 4. On October 26, 2023, Wild Frontier filed its “Notice of Default And Termination Of Automatic Stay” (“*Notice of Default*”)¹² stating that “Debtors have failed to comply with the Order by failing to timely obtain the required policy. The policy purchased by the Debtors is a builder’s risk policy, not a commercial property policy. Wild Frontier contends that a builder’s risk insurance policy is insufficient to provide the commercial property coverage required by the Court’s Order at ECF No. 68 as the policy only provides coverage for new construction during the construction period. Wild Frontier further contends that the Debtor has failed to comply as the Evidence of Insurance filed as an exhibit to the Second Supplemental Certificate of Compliance (Docket 73) removes Wild Frontier

⁴ ECF No. 68.

⁵ ECF No. 69, Ex. A.

⁶ ECF No. 72, Ex. A.

⁷ *Id.*

⁸ *Id.*

⁹ ECF No. 72-1, at ¶ 31.

¹⁰ ECF No. 73.

¹¹ ECF No. 73-1.

¹² ECF No. 74.

Acquisitions, LLC as the mortgagee and replaces it with C. Ross Travis, Trustee as a loss payee. Additional alleged defaults include, but are not limited to, the listing of Crockett Passways, [SIC] LLC as the insured party. Crockett Passways, [SIC] LLC, an entity which is not either Debtor in this case or an entity formed with the Texas Secretary of State.¹³

After considering the pleadings on file, arguments of counsel, evidence in the record and applicable law, as well as this Court's prior order¹⁴ requiring that the Debtors obtain "property damage, fire and windstorm insurance," the Court is not satisfied that the Insurance Policy obtained by the Debtors satisfies this Court's prior order at ECF No. 68, as it is a builders insurance policy that does not cover property, fire, or windstorm damage that is not associated with new construction or renovations on the property.¹⁵ This clearly does not adequately protect Wild Frontier's interest in the property, as, for instance, if a wildfire or hurricane destroyed all 26 buildings on the property the current Insurance Policy would not cover the loss. However, in an exercise of discretion, the Court will provide Debtors one last opportunity to obtain insurance that adequately protects Wild Frontier's interest in the Property. Accordingly, it is therefore:

ORDERED: that

1. "Debtors' Motion To Set Aside Wild Frontier's Notice Of Default And Termination Of Automatic Stay"¹⁶ filed by Shambhala Treatment Center LLC and Crockett Pathways, LLC, on November 3, 2023 is GRANTED in part as follows:
 - a. "Notice of Default and Termination of Automatic Stay"¹⁷ filed by Wild Frontier Acquisitions, LLC ("*Wild Frontier*") on October 26, 2023 is DISREGARDED.
 - b. On or before 5:00 pm (Central Standard time) December 27, 2023 Debtors must obtain **commercial** property damage, fire and windstorm insurance in amount not less than Wild Frontier's secured claim, purchase said insurance from an insurer that is authorized to do business in the state of Texas or an eligible surplus lines insurer; and name Wild Frontier as the person to be paid under the policy in the event of a loss. **Said insurance shall be sufficient to cover an unexpected loss resulting from property damage, fire, or windstorm damage regardless if associated with new construction or renovations/repairs.** Insurance must be purchased and pre-paid for a period of not less than twelve (12) months and provide a copy of said insurance to Wild Frontier. The property to be covered by said insurance is: **69.659 acres out of and a part of the FRANK JOHNSON SURVEY, A-46, in the City of Crockett, Houston County, Texas, and being out of and a part of the Texas Youth Commission called 81.83 acres tract and being out of and a part of a called 32.6 acres tract, described in a deed recorded in Vol. 277, Page 221, of the Houston County Deed Records; more commonly known as 1701 SW Loop 304, Crockett, TX 75835.**

¹³ *Id.* at , ¶ 4.

¹⁴ ECF No. 68.

¹⁵ ECF No. 107, Exhibits 1-4.


¹⁶ ECF No. 81.

¹⁷ ECF No. 74.

- c. Debtors must also add the United States Trustee's office as a party of notice on any insurance policy.
 - d. Upon obtaining insurance, Debtors must (i) provide a copy to Wild Frontier's counsel, and (ii) file a certificate of compliance with the Clerk of Court no later than December 28, 2023.
 - e. Failure of Debtors to obtain insurance on the Property as described *supra* by the December 27, 2023 deadline will be a final default under this Order and cause to lift the automatic stay without further orders of this Court.
 - f. On or before January 1, 2024, and every year thereafter and on such date and year, Debtors must pay in full the ad valorem taxes due on the Property commencing with the 2023 tax year and provide Wild Frontier with written proof of payment from the appropriate taxing entities within ten (10) days of payment thereof.
 - g. After complying with Paragraph 1(b) Debtors must maintain insurance in place throughout the remainder of this bankruptcy. Thereafter if Debtors fail to comply with paragraph 1 of this Order, Wild Frontier must give Debtors and Debtors' counsel written notice by regular certified and electronic mail. If Debtors fail to comply within 14 days of the date that the notice was sent, it is a Final Default under this Order.
 - h. The automatic stay shall remain in effect until (i) there is a Final Default under this Order; (ii) this case is dismissed or converted; or (iii) Debtors receive a bankruptcy discharge. If the stay terminates because there is a default, Wild Frontier must file a notice of termination of the automatic stay with the Clerk of Court. Debtors may challenge any notice of termination by filing a motion to set aside the notice of termination within ten (10) days of such notice being filed on this Court's docket. Pending consideration of the motion by the Court, Wild Frontier may proceed with all actions preparatory to foreclosure, but may not consummate a foreclosure sale of the Property.
2. All other relief requested but not expressly granted herein with respect to, "Debtors' Motion To Set Aside Wild Frontier's Notice Of Default And Termination Of Automatic Stay"¹⁸ filed by Shambhala Treatment Center LLC and Crockett Pathways, LLC, on November 3, 2023 is DENIED.

¹⁸ ECF No. 81.

SIGNED December 20, 2023



Eduardo V. Rodriguez
Chief United States Bankruptcy Judge